

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the matter of)	
)	
Universal Service Contribution Methodology)	WC Docket No. 06-122
)	
Petition of the RICA members for Declaratory)	
Ruling Regarding Imputation of Interstate)	
Revenue)	
)	

COMMENTS OF GRANDE COMMUNICATIONS NETWORKS, LLC

Grande Communications Networks, LLC (“Grande”), by its attorneys, submits these comments in response to a public notice of the Wireline Competition Bureau (“Bureau”) of the Federal Communications Commission’s (“FCC” or “Commission”)¹ soliciting comments on the Petition for Declaratory Ruling filed by the Rural Independent Competitive Alliance (“RICA”).² In its Petition, RICA requests the Commission issue a declaratory ruling that competitive local exchange carriers (“CLECs”) that do not charge their end users an interstate subscriber line charge (“SLC”) are not required to declare or identify on their annual Telecommunications Reporting Worksheet (“Form 499”) a portion of their fixed local exchange

¹ Public Notice, Wireline Competition Bureau Seeks Comment on a Petition for Declaratory Ruling filed by the Rural Independent Competitive Alliance, WC Docket No. 06-122 (rel. May 9, 2011) (“Public Notice”).

² *In re: Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review - Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms; Universal Service Contribution Methodology; Petition of the RICA members for Declaratory Ruling Regarding Imputation of Interstate Revenue*, CC Dkts 96-45, 98-171; WC Dkt. 06-122 (filed April 26, 2011) (“RICA Petition”).

service revenues as attributable to interstate service.³ RICA also seeks a ruling that end user revenues collected pursuant to rates charged for telephone service provided exclusively within one state are intrastate revenues.⁴ Grande agrees with RICA that CLECs are not obligated to charge and collect an interstate SLC nor are CLECs required to identify and apportion their purely intrastate revenues into interstate and intrastate segments. Grande also agrees with RICA's assertion that the Commission's rules requiring carriers to recover the costs associated with the origination and termination of interstate calls from their local exchange service end users do not apply to CLECs. For the reasons discussed below, Grande urges the Commission to grant RICA's Petition.

I. INTRODUCTION AND BACKGROUND

Grande is a competitive telecommunications carrier that provides telephone, cable, and Internet services to retail end users in Texas. Grande petitioned the FCC for review of a contributor audit conducted by the Universal Service Administrative Company ("USAC") that raises similar issues to those identified in RICA's Petition. One issue in Grande's audit concerned the reporting of Grande's revenues from the provision of local telecommunications services to end users. Like the RICA members, during the time period covered in Grande's USAC audit, Grande did not have a federally-tariffed interstate SLC and instead chose to bill its local exchange services via charges that included an intrastate monthly "customer line charge." Grande reported the revenue from its intrastate services on line 404 of the Form 499-A, with zero revenue reported on line 405 (Subscriber Line Charges). In the audit, USAC took the position

³ *Id.* at 4.

⁴ *Id.*

that Grande's intrastate customer line charge was actually an interstate subscriber line charge. Grande has appealed this USAC audit finding.⁵

In its Petition, RICA describes a similar position taken by USAC. RICA discussed letters received from USAC advising RICA members of their failures to identify and report on the Form 499A an interstate portion of their fixed local exchange service revenues.⁶ RICA also noted that its CLEC members do not impose on their end users a federal SLC to recover the costs of originating and terminating interstate calls but instead, recover these costs solely through switched access charges.⁷

II. COMMISSION RULES DO NOT REQUIRE CLECS TO CHARGE A FEDERAL SLC

Grande agrees with RICA that CLECs are not obligated to charge a federal SLC. In its Petition RICA accurately explains that the Commission rules governing the recovery of the costs of originating and terminating interstate toll calls from their end user subscribers apply only to incumbent local exchange carriers ("ILECs").⁸ Part 69 contains two provisions that mandate the collection of a subscriber line charge. The first, section 69.104, states that the rule "is applicable only to incumbent local exchange carriers not subject to price cap regulation."⁹ The second, section 69.152, governs the collection of an interstate SLC by price cap carriers. This

⁵ See *In re: Grande Communications Request for Review of Decision of the Universal Service Administrator*, WC Docket No. 06-122, at 9 (filed Dec. 28, 2009) ("Request for Review").

⁶ *Id.* at 2.

⁷ *Id.* at 3.

⁸ RICA Petition at 6.

⁹ 47 C.F.R. § 69.104(a).

section does not apply to CLECs since only dominant local exchange carriers are subject to price cap regulations.¹⁰

Further, RICA correctly notes in its Petition that there is no Commission rule prohibiting a CLEC from determining that its federally tariffed interstate switched access charges fully recover the CLEC's costs for providing interstate switched access or precluding a CLEC from determining that none of its intrastate local exchange service revenues are compensation for providing interstate switched access.¹¹ Because it is not mandatory that CLECs recover these interstate costs from their subscribers, a CLEC's intrastate revenues will not necessarily include any revenues attributable to an interstate SLC and the CLEC would not have any interstate SLC revenues to report on its Form 499A.

The Commission and USAC also have acknowledged that CLECs are not required to collect a federal SLC and may choose to charge a state SLC. As Grande noted in its Request for Review, CLECs have significant latitude in how they recover their costs and are permitted to assess intrastate SLCs.¹² The Commission has acknowledged that CLECs can charge state SLCs and stated in a current Consumer Fact Sheet that "[i]n some states, a state subscriber line charge may appear on customer bills."¹³ USAC similarly has agreed that CLECs can charge state SLCs, stating in its audit report to Grande that "USAC management agrees with the Carrier that any state SLC revenues are to be reported as intrastate revenues on its Form

¹⁰ 47 C.F.R. §§ 69.152, 61.3(ee), 61.41(a)(2).

¹¹ RICA Petition at 7.

¹² Grande Petition at 11.

¹³ FCC Consumer Facts: Understanding Your Telephone Bill at <http://www.fcc.gov/guides/understanding-your-telephone-bill> (visited June 1, 2011).

499-A.”¹⁴ It is clear that CLECs are given great latitude in designing their service cost recovery methods and are not required to collect a federal SLC.

III. USAC ERRONEOUSLY REQUIRES AN INTERSTATE COMPONENT TO INTRASTATE LOCAL EXCHANGE REVENUES

Grande agrees with RICA that USAC’s attempts to require Form 499A filers to identify an interstate portion of local exchange revenues is not supported by, and appears to reflect a misunderstanding of, the Commission’s rules. In its Petition, RICA explains that there is no federal rule that obligates CLECs to allocate local exchange service revenues as interstate.¹⁵ A CLEC may determine that none of its local exchange revenues include a component of the cost of providing interstate service. Similarly, a CLEC may decide that its per-minute access charges are sufficient to compensate it for the cost of providing interstate service, such that there is no need to collect an “interstate component” via other service revenues.

Importantly, so long as the CLEC is consistent in its allocation decisions, neither USAC nor the FCC can alter its Form 499A reporting. Grande, for example, treated its local exchange revenues (including the “customer line charge”) as intrastate service revenue for all purposes. It reported the revenue as intrastate revenue and paid applicable state taxes and state USF charges on the revenues. Neither USAC nor the FCC can compel a CLEC to reclassify intrastate revenues to the interstate jurisdiction.

Finally, Grande acknowledges that USAC relies upon a statement in the Form 499A Instructions that purports to require all carriers to include an interstate portion of local

¹⁴ Independent Auditor’s Report on Grande Communication Networks, Grande Communications ClearSource, and Denton Telecom Partners, at 32 (dated June 8, 2009), (adopted by USAC Board of Directors October 22, 2009).

¹⁵ RICA Petition at 7 (CLECs not precluded from determining that local revenues do not include costs for providing interstate service).

exchange service revenues to the interstate jurisdiction.¹⁶ USAC's apparent expectation that CLECs always will report interstate SLC revenues and its efforts to require CLECs to report such revenues – including by requiring CLECs to identify portions of purely intrastate revenues as interstate - reflects a reading of this Instruction that would be unlawful. The Instruction does not apply to all carriers. Rather, for the reasons explained above, this instruction applies only to incumbent LECs that are subject to the SLC rules in Part 69. The Bureau should revise this Instruction in future forms to make clear that it applies only to incumbent LECs, not to CLECs.

IV. CONCLUSION

For the foregoing reasons, the Commission should grant RICA's Petition. CLECs are not required to collect a federal or interstate SLCs and USAC may not force CLECs to declare, on the Form 499A, a portion of the CLEC's intrastate revenues as attributable to an interstate SLC.

Respectfully Submitted,



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¹⁶ See, e.g., 2011 Form 499A Instructions at 15.